

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

KEITH LEMONT FARMER,

Plaintiff,

VS.

SHAWN PHILLIPS, ET AL.,

Defendants.

No. 19-1211-JDT-cgc

ORDER DIRECTING PLAINTIFF TO FILE UPDATED FINANCIAL
INFORMATION OR PAY THE FULL \$505 APPELLATE FILING FEE

Plaintiff Keith Lemont Farmer, a prisoner acting *pro se*, filed a complaint pursuant to 42 U.S.C. § 1983. (ECF No. 1.) The Court granted leave to proceed *in forma pauperis* in accordance with the Prison Litigation Reform Act (PLRA), 28 U.S.C. §§ 1915(a)-(b). (ECF No. 8.) On June 3, 2020, the Court dismissed the case *sua sponte* pursuant to 28 U.S.C. §§ 1915(e)(2)(B)(ii) and 1915A(b)(1). (ECF No. 26.) Farmer has filed a notice of appeal. (ECF No. 28.)

Generally, a plaintiff granted leave to proceed *in forma pauperis* is not required to pay filing fees. 28 U.S.C. § 1915(a)(1). Because Farmer is a prisoner, however, he must pay the entire \$505 appellate filing fee, although he may again be able to take advantage of the installment-payment method of § 1915(b). *See McGore v. Wrigglesworth*, 114 F.3d 601, 604 (6th Cir. 1997), *partially overruled on other grounds by LaFountain v. Harry*, 716 F.3d 944, 951 (6th Cir. 2013.) In order to take advantage of the installment procedures, a prisoner plaintiff must submit, in addition to a notice of appeal, an *in forma pauperis* affidavit and inmate trust account statement. *Id.* at 610; 28 U.S.C. § 1915(a)(2).

In this case, Farmer did not submit any updated financial information with the notice of appeal. Therefore, at the present time, he is not eligible to use the installment procedures of § 1915(b). Farmer is, however, liable to the Court for the full \$505 appellate filing fee, which accrued at the moment the notice of appeal was filed. Accordingly, he is hereby ORDERED to submit, within 21 days after the date of this order, either the full \$505 appellate filing fee or an updated *in forma pauperis* affidavit and a copy of his inmate trust account statement for the last six months.

If Farmer fails to either pay the fee or file the required documents in a timely manner, this Court will deny leave to appeal *in forma pauperis* and assess the entire \$505 filing fee from his inmate trust account without regard to the PLRA's installment procedures, and the Sixth Circuit Court of Appeals could dismiss the appeal for failure to prosecute. However, if Farmer timely submits the required financial information and the Court finds he is still indigent, the Court will grant leave to appeal *in forma pauperis* and assess the filing fee in accordance with the installment procedures.

The Clerk is directed to send Farmer a copy of the prisoner *in forma pauperis* affidavit form along with this order. The Clerk also is directed to notify the Sixth Circuit of the entry of this order.

IT IS SO ORDERED.

s/ James D. Todd
JAMES D. TODD
UNITED STATES DISTRICT JUDGE